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Attorney for Mason and Del Castillo Defendants

5 UNITED STATES DISTRICT COURT

6 DISTRICT OF NEVADA

7  
8 ELVEN JENNINGS and  
9 RICHARD FOURNIER,

10 Plaintiffs,

CASE NO.3:07-cv-00230-LRH-RAM

ORDER ON

11 vs.

12 **EX PARTE**

13 MASON AND DELCASTILLO  
14 DEFENDANTS' AND  
15 COUNTERCLAIMANTS'  
16 **EX PARTE** MOTION FOR STAY  
17 OR CONTINUANCE OF:

18 (1) ALL PROCEEDINGS; AND

19 (2) CONSIDERATION OF A  
20 NEW AMENDED DISCOVERY  
21 PLAN AND SCHEDULING  
22 ORDER

23 (FIRST)

24 AND

25 MOTION FOR EXTENSION OF  
TIME TO RESPOND TO  
MOTION TO COMPEL

(FIRST)

FAY WARD, individually and as  
Trustee of the D.P. and FAY  
WARD FAMILY TRUST, dated  
July 23, 1997; BRYAN S. MASON  
and L. JANE MASON, individually  
and dba "SILVER & STONE LLC";  
SILVER & NV STONES, LLC,  
a Nevada limited liability  
company; DOUGLAS L. FARNHAM,  
individually and dba  
"FARNHAM TURQUOISE CO.",

Defendants.

BRYAN S. MASON  
and L. JANE MASON, individually  
and dba "SILVER & STONE LLC";  
SILVER & NV STONES, LLC,  
a Nevada limited liability  
company,

Counterclaimants,

vs.

ELVEN JENNINGS, RICHARD FOURNIER,  
DOES 1 through 10, inclusive, and  
ROE CORPORATIONS 1 through 10,  
inclusive

Counter-Defendants

COME NOW Mason and Del Castillo Defendants ("Defendants"), by and through their  
undersigned counsel, pursuant to LR-6-1, LR 7-2 and LR 26-4, and hereby file, pursuant to LR  
6-2 and LR 7-5, this *Ex Parte* Motion for (A) Stay or Continuance of (1) Proceedings and (2)  
Consideration of an Amended Discovery Plan and Scheduling Order, and (B) Motion for

1 Extension of Time to Respond to Motion to Compel. These Motions are based upon the points  
2 and authorities, which follow, together with the entire record on file herein.

3 **POINTS AND AUTHORITIES**

4 Based on the illness of their counsel and counsel's restrictions from working and need for  
5 further medical testing, treatments and care for his medical conditions, all based on orders of his  
6 doctors, Defendants hereby respectfully request that all actions and proceedings herein be stayed  
7 and extended for 30 days, and that the dates to be agreed upon and Ordered by this Honorable  
8 Court in any proposed Amended Discovery Plan and Scheduling Order entered herein, together  
9 with all discovery activities, deadlines and other time limits, including the hearing to be set  
10 herein on such matters, be extended for 30 days from the date hereof. Further, Defendants  
11 request a 30-day extension within which to respond to the pending Motion to Compel filed  
12 herein by Plaintiffs (Document # 140).

13  
14 Defendants hereby also respectfully advise that the proceedings herein are already in a  
15 state of flux and uncertainty due to the illness of Defendant Jane Mason, and her inability to  
16 participate in these proceedings or assist the undersigned counsel in these proceedings.  
17 Defendant Jane Mason is the most important and a critical witness for Defendants in these  
18 proceedings and Defendants will be severely prejudiced if the proceedings herein move forward  
19 without her active involvement and full participation. Accordingly, in addition to the inability of  
20 the undersigned counsel to participate herein because of his illness, Defendants respectfully  
21 advise the Court that the illness of Jane Mason provides a separate and independent basis for the  
22 continuance/stay sought herein.  
23  
24  
25

Therefore, Defendants respectfully request that all actions and proceedings herein be stayed and extended for 30 days, and that the dates to be agreed upon and Ordered by this Honorable Court in any proposed Amended Discovery Plan and Scheduling Order entered herein, together with all discovery activities, deadlines and proceedings.

These Motions are filed only after notice and communication with opposing counsel. Counsel for Plaintiffs, Richard Hill, Esq., has been previously advised by e-mail of Defendants' Counsel's illness and the need and intent to file this pleading (see Schedule 1 attached hereto), but Counsel for Plaintiffs has refused to stipulate to any relief requested on the grounds he had discussed the undersigned counsel's medical condition and requests with his clients and his clients wanted to proceed with the case and related activities, allowing no extension of time for any purpose. See Schedule 2 attached hereto.

#### CONCLUSION

Defendants respectfully submit that, for all the reasons and based on the arguments and authorities set forth above, the Motions sought herein should be granted.

Respectfully submitted,

Dated: November 4, 2008

/s/Michael J. Morrison

By:

Michael J. Morrison, Esq. SBN 1665  
Attorney for Defendants

IT IS SO ORDERED



UNITED STATES MAGISTRATE JUDGE

DATED: November 5, 2008



## Re: Jennings v Ward

1 message

Michael J. Morrison, Chtd. <venturelawusa@gmail.com>  
To: rhill@richardhillaw.com, "DeLong, Robert W." <RDeLong@parsonsbehle.com>  
Cc: "Veasy, Paul" <PVeasy@parsonsbehle.com>, Michael Morrison <michael@pyramid.net>

Mon, Nov 3, 2008 at 4:18 PM

Gentlemen- As I mentioned before, I have been having some health problems and my doctors have restricted my activities, including work. Accordingly, I am restricted from work until 1 Dec, at which time I will be re-evaluated. In the interim, I have been receiving and will continue with testing and treatment for my medical problems. Your understanding and cooperation would be appreciated during this period. By this e-mail, I am respectfully requesting that Richard allow me an extension until 1 Dec to respond to his Motion to Compel. I agree with your requests for a scheduling conference, but I may not be able to attend in person or may have to attend by phone at a mutually convenient time. I will await further word on this from you or the court. I have been trying, w/o much success, to find a lawyer who can step in or help me and will continue to do so and keep you apprised. Thanks. Mike

On Thu, Oct 9, 2008 at 3:34 PM, Michael J. Morrison, Chtd. <venturelawusa@gmail.com> wrote:

Gentlemen- Sorry, but I was getting some medical treatment yesterday and did not get to advise you that the docs sent to you were sent to me from Kelly McGinnis w/ a request I forward to you. Mike

## Re: Extension

2 messages

Michael J. Morrison, Chtd. <venturelawusa@gmail.com>  
To: rhill@richardhillaw.com, sgallagher@richardhillaw.com  
Cc: "Michael J. Morrison, Chtd." <venturelawusa@gmail.com>

Tue, Nov 4, 2008 at 2:37 PM

Richard- Please let me know soonest whether you will stipulate to the extension referenced in my e-mail yesterday, i.e., until 1 Dec. Otherwise, I will need to file a motion today, and I'm really not feeling up to it. Thanks. Mike

Richard Hill <rhill@richardhillaw.com>

Tue, Nov 4, 2008 at 3:02 PM

Reply-To: rhill@richardhillaw.com

To: "Michael J. Morrison, Chtd." <venturelawusa@gmail.com>, sgallagher@richardhillaw.com, "Veasy, Paul" <PVeasy@parsonsbehle.com>, rdelong@parsonsbehle.com

Cc: eljennin@msn.com, Richard Fournier <bjf@starsstream.net>

uhh... my clients are very unhappy.

the allegations in your pleadings are unfounded, to say the least  
they are also unsupported.

when we send out discovery, it gets ignored.

then, when you finally agree to respond, you don't. Then you claim that Jane is sick and that prevents you from doing anything.

and, when I file a motion to compel, you are "sick" you offer no specifics.

all very vague and VERY inconvenient for my clients.

w/ huge fees and costs and the defendants don't and fail to justify their case.

having been down the ill-health path myself recently, I am not without compassion.

however, everybody demanded that I keep up. And I did.

further, my clients are entitled to consideration and to have this case on some kind of track.

finally, I leave for 3 weeks on 11/29.

December 1 does not work for me.

I am available to speak w/ you.

sorry for rambling, but I cannot accommodate your request based on the status of the case and the lack of information.

magistrate mequand's office called about 11/18 - does that work for you?

ugh

**CERTIFICATE OF SERVICE**

STATE OF NEVADA       )  
  ) ss:  
COUNTY OF WASHOE    )

I HEREBY CERTIFY that I am an employee of Michael J. Morrison, Chartered, 1495 Ridgeview Drive, Suite 220, Reno, Nevada 89519, and that on the 4th day of November, 2008, I served a true and correct copy of the foregoing **DEFENDANTS' MOTION TO STAY AND MOTION FOR EXTENSION** to the following by filing on the ECF system, by which said counsel has consented to be served:

Richard G. Hill, Esq.  
652 Forest Street  
Reno, Nevada 89509

Earl M. Hill, Esq.  
Parsons Behle & Latimer  
50 W. Liberty Street, Suite 750  
Reno, NV 89501

And by U.S. Mail to:

Kelly McGinnis  
415 Berthelson Street  
Manassa, CO 81141

/s/Christelle Morrison

\_\_\_\_\_  
Christelle Morrison